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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,289	04/24/2000	Martin D. Nathanson	1211.136-CIP	7243
5514	7590	11/03/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/556,289	NATHANSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven HD Nguyen	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 24 April 2000.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-56 is/are pending in the application.  
 4a) Of the above claim(s) 17-25,28-31 and 40-54 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16,26,27,32-39,55 and 56 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 1/03, 5/02, 3/01.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Groups II, III and IV in the reply filed on 7/14/04 is acknowledged. The traversal is on the ground(s) that searching one group will cover the other group. This is not found persuasive because the claims have a different limitation.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims drawn to an invention nonelected with traverse in Paper filed 7/14/04. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The applicant amends the independent claims 1 and 7 into the group IV. Therefore, the examiner joins Group I and IV.

### ***Response to Amendment***

3. The amendments for specification are not entered in the PALM. Please resubmitting it.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Razavi (USP 6754183).

Regarding claim 32, Razavi discloses (Figs 1-4 and col. 1, line 7 and col. 15, lines 22) a method and system for exchanging data between a vehicle and a data site under an SNMP via a transceiver wherein data is collected by a communication unit of the vehicle (Fig 4 discloses a car includes a communication device for transmitting the collected data from the other devices to the data site by using SNMP, See Fig 2 discloses a communication unit at the car and See col. 10, lines 16-33, SNMP).

Regarding claim 33, Razavi inherently discloses the data site includes a neighboring vehicle (Fig 2 discloses a cell phone for exchanging communication with another vehicle).

Regarding claim 34, Razavi discloses a method and system for exchanging discovery signals with the neighboring vehicles and status data with selected ones of the neighboring vehicles (Col. 9, lines 38-67).

6. Claims 1-2, 6-7, 9, 11, 13-14, 26-27 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Kimura (USP 6058312).

Kimura discloses (Figs 1-16 and col. 1, lines 7 to col. 23, lines 19) a system for transferring data between the vehicle and another exchange data site comprising a pair of data links having a varying signal impedance level (Fig 6, the device has a links for transferring data) and a switch means (Fig 6, Ref 40) for switching between the pair of data link so that the data is transferring on the data link having a least impedance (See Fig 5, 7, 13, 15 and 16) by a measuring the impedance of the links (Fig 5, Ref S11, Fig 7, Ref S21, Fig 13, Ref S31 and Fig 15, Ref S41).

7. Claims 1-3, 5-9, 11-15, 26-27 and 35-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Spaur (USP 6122514).

Regarding claims 1, 7, 9, 11-14, 26-27 and 35, Spaur discloses (Figs 1-5 and col. 1, line 3 to col. 14, line 33), a system for transferring data between the vehicle and another exchange data site comprising a pair of data links having a varying signal impedance level (Fig 1, the device has a links for transferring data, Ref 34) and a switch means (Fig 1, Ref 64) for switching between the pair of data link so that the data is transferring on the data link having a least impedance by a measuring the impedance of the links (Fig 1, Ref 50 for monitoring the links to the least cost channel; See Fig 3 and 4) and fixed network comprises the access points and data link joins mobile node with an access point (Fig 1).

Regarding claim 2, Spaur discloses link including a wireless (Col. 6, lines 30-48).

Regarding claims 5 and 6, Spaur discloses satellite and terrestrial network (Col. 6, lines 30-48).

Regarding claim 3 and 36, Spaur a first of data link is operable in spread spectrum band (Col. 6, lines 30-48).

Regarding claims 8 and 15, Spaur discloses node having IP address (Col. 6, lines 1-15).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4, 10, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur (USP 6122514) in view of Hakim (USP 6760748).

Regarding claims 4, 10 and 16, Spaur '514 fails to disclose the claimed invention. However, Hakim discloses both node and access point are 802.11 which use IPV6 (See Fig 2 and col. 42, lines 22 to col. 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a mobile and access point 802.11 as disclosed by Hakim's method and system into the method and system of Spaur. The motivation would have been to reduce the cost of the system.

10. Claims 3-4, 8, 10, 15-16 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Hakim (USP 6760748).

Kimura fails to disclose the claimed invention. However, Hakim discloses both node and access point are 802.11 which use IPV6 and spread spectrum, satellite (See Fig 2 and col. 42, lines 22 to col. 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a mobile and access point 802.11 as disclosed by Hakim's method and system into the system of Kimura. The motivation would have been to reduce the cost of the system.

11. Claims 32-34, 37-39 and 51-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur (USP 5732074) in view of Hakim (USP 6760748).

Regarding claims 32, 37 and 51-56, Spaur '074 discloses (Figs 1-4 and col. 1, line 10 to col. 14, line 38) a system for transferring data between a vehicle and a data exchange site comprising a communication unit located onboard the vehicle to collect operation data from the selected components of the vehicle and to exchanging the data with the data site (Fig 1, Ref 10,

col. 8, line 10 to col. 11, lines 30). However, Spaur '074 fails to disclose a communication unit is 802.11 and an 802.11 access point acts as a router and foreign agent for communication unit and interface to a wireline network in order to route the data between the mobile and data site by SNMP. However, in the same field of endeavor, Hakim discloses a communication unit is 802.11 and an 802.11 access point acts as a router and foreign agent for communication unit and interface to a wire line network in order to route the data between the mobile and data site by SNMP and Spectrum band (See Fig 2 and col. 42, lines 22 to col. 10).

Since, Spaur suggests an Ethernet and mobile IP. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a mobile and access point 802.11 as disclosed by Hakim's method and system. The motivation would have been to reduce the cost of the system.

Regarding claims 33-34 and 38-39, Spaur' 074 and Hakim fail to disclose the claimed invention. However, it would have been obvious to one of ordinary skill in the art to implement a data site as a regulatory agency or another vehicle and exchanging discovery and status with another vehicle because it's well known and expected in the art at the time of invention was made in order to exchange data with another node.

12. Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur (USP 5732074) and Hakim (USP 6760748) as applied to claim 32 above, and further in view of Spaur (USP 6122514) or Kimura (USP 6058312).

Regarding claim 47-50, Spaur' 074 and Hakim fail to disclose the claimed invention. However, these claims are similar as claims 1-3, 7, 26 and 35-36. Therefore, they have been rejected with the similar rational. Therefore, it would have been obvious to one of ordinary skill

in the art at the time of the invention was made to apply a method and system for measuring the link in order to determine the least cost routing between the links as disclosed by Spaur '514 or Kimura into the system of Spaur '514 and Hakim. The motivation would have been to reduce the cost of transferring data.

13. Claims 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur (USP 5732074) in view of Yuan (USP 6496704).

Regarding claims 55-56, Spaur '074 discloses (Figs 1-4 and col. 1, line 10 to col. 14, line 38) a system for transferring data between a vehicle and a data exchange site, comprising a communication unit (Fig 1, Ref 18, 20, 22, 26, 14) located onboard the vehicle to collect vehicle operational data from selected components of the vehicle (Fig 1, Ref 50) and to exchange data representative of the vehicle operational data with the data exchange site (Fig 1, Ref 10, col. 8, line 10 to col. 11, lines 30), the communication unit being operable to exchange Internet traffic with the data exchange site when a connection is established between the communication unit and one of base stations (Fig 1, Ref 16 and Ref 18, 20, 22, 26 and 14 will exchange the collected data). However, Spaur fails to disclose a mobile IP enable access point. In the same field of endeavor, Yuan discloses a mobile IP enable access point such as Ethernet and a computer unit on a vehicle for exchanging the data. (Fig 9, Ref 178 is mobile IP enable access point and Ref 172, is a device onboard of vehicle, col. 6, lines 8-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to overlay a mobile IP network with CDPD network as disclosed by Yuan's system and method into Spaur's system and network. The motivation would have been to prevent a data loss during the mobile and remote host during roaming.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Steven HD Nguyen".

Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
10/29/04